

2019 INTERIM CALL FOR APPLICATIONS

CLEAN WATER ACT SECTION 319 NONPOINT SOURCE PROGRAM

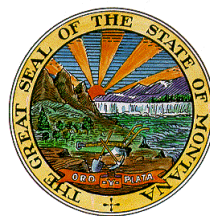


Haskill Creek Willow Soil Lift

January 28, 2019

Prepared by:

Water Protection Bureau
Montana Department of Environmental Quality
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P.O. Box 200901
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SECTION 1 – FUNDING SUMMARY

PURPOSE

The goal of Montana’s Nonpoint Source (NPS) Management Program is to protect and restore water quality from the harmful effects of nonpoint source pollution. The Montana Department of Environmental Quality (DEQ) is issuing this 2019 Interim Call for Applications (Call) to solicit requests for funding for the design and/or construction of on-the-ground projects that achieve this goal, and foster community and individual interest in addressing NPS pollution.

FUNDING SOURCE

Funding for this program comes from the United States Environmental Protection Agency (EPA) under Section 319(h) of the Federal Clean Water Act (CWA).

TOTAL FUNDING AVAILABLE

DEQ anticipates approximately \$500,000 in NPS project funds will be available for this Call. Funding for this call is coming from multiple sources. The majority of the funding will become available in July of 2019, though a smaller amount may become available as early as May 1, 2019. Of the total amount, the goal is to provide up to \$300,000 for projects within the Bitterroot watershed. This is consistent with DEQ’s ongoing focus of increased NPS support efforts in rotating watersheds, starting with the Bitterroot watershed. The remaining \$200,000, as well as any unspent amount from the Bitterroot, will be made available for eligible projects throughout the rest of Montana.

INDIVIDUAL AWARDS

The recommended range for NPS funding requests is \$10,000–\$300,000 per project.

COST SHARE

A minimum 40% cost share (match) is required. The match must be from non-federal sources (state, local, private), and may include in-kind donations. Use the following formula to calculate the amount of non-federal match required for your project.

$$((319 \text{ dollars requested})/.60) - (319 \text{ dollars requested}) = \text{required non-federal match}$$

PROJECT SPONSOR ELIGIBILITY

All project sponsors must:

- Be either a governmental entity or a nonprofit organization. A governmental entity is a local, state, or federal organization that has been established and authorized by law. Nonprofit organizations are identified as having a tax exempt declaration of 501(c)(3) from the Internal Revenue Service.
- Have a current DUNS number. Data Universal Numbering System (DUNS) numbers may be obtained from the following website: <http://fedgov.dnb.com/webform/index.jsp>

- Be registered with the federal System for Award Management (SAM). The SAM registration website is <https://www.sam.gov>
- Be registered with the Montana Secretary of State. All project sponsors must be registered with the Montana Secretary of State to do business in the state of Montana. Registration with the Secretary of State may be completed via the following website:
<http://sos.mt.gov/business/toolkit/index.asp>
- Have the necessary liability insurance and be in compliance with the Workers Compensation Act. Awardees will be required to demonstrate proof of liability insurance and compliance with the Workers Compensation Act prior to being awarded funding. Contact Brian Barnes, (Brian.Barnes@mt.gov or 406 444-4205) for guidance on the type and level of insurance coverage necessary for your project.
- **New !!** Comply with Governor's Executive Order 15-2018 (June 8, 2018) regarding "dark money" disclosure. Attachment B contains a copy of the Order, Attachment C is a copy of the Declaration Form, and Attachment D is a copy of the Disclosure template (Microsoft Excel document). For additional information on how to comply with the executive order, please contact Dean Yashan, Section Supervisor for the DEQ Watershed Protection Section, at 406-444-5317 or dyashan@mt.gov.

PROJECT ELIGIBILITY

All projects must:

- Address nonpoint source pollution.
- Implement actions consistent with recommendations in the 2017 Montana Nonpoint Source Management Plan (<http://deq.mt.gov/Portals/112/Water/WPB/Nonpoint/Publications/Annual%20Reports/2017NPSManagementPlanFinal.pdf>).
- Implement activities or practices identified in a DEQ-accepted Watershed Restoration Plan (WRP). If you do not have a DEQ-accepted WRP by the Application deadline you must submit a draft prior to applying for funding. DEQ staff will review the draft and estimate the likelihood of it being ready for DEQ acceptance prior to March 15, 2019. See <http://deq.mt.gov/water/surfacewater/watershedrestoration> for information on existing plans.
- Address impairments identified on Montana's 2018 List of Impaired Waters. In some instances, projects on streams that are not listed as impaired may be acceptable, if they reduce pollutant loading to an impaired, downstream receiving water.
- Be completed within 3 years.

The following activities are NOT eligible for funding:

- Development of a Watershed Restoration Plan (WRP).
- Activities required as a condition of a point source (MDPES) discharge permit.
- Watershed characterization studies.
- Pollutant source identification.
- Water quality monitoring, except for monitoring the effectiveness of funded projects.
- Statewide education and outreach campaigns.
- Projects whose primary purpose is to protect infrastructure from natural stream channel migration.

FUNDING PRIORITIES

The goal of Montana's NPS Program is to protect and restore water quality from the harmful effects of nonpoint source pollution. Some projects create more significant, sustainable reductions in nonpoint source pollution. DEQ has prepared a **project scoring sheet (Attachment A)** that will be used *as a guide* by the application review team to help evaluate the merits of individual projects. Please carefully review the scoring sheet prior to filling out your application. Below is a summary of DEQ's key funding priorities.

- The project will result in long-term, sustainable reductions in nonpoint source pollution.
- Nonpoint source goals for the project are clearly defined, measurable, and attainable.
- The project will promote self-maintaining natural, ecological, and social processes that will protect water quality.
- Pre-project planning has been initiated, including garnering support from appropriate stakeholders, evaluating the benefits of potential projects in the context of the broader health of the watershed, and ensuring that project costs are reasonable as compared to anticipated results.
- Sufficient technical and managerial resources are available to facilitate completion of the project, including consideration of past performance.

In addition, project sponsors should consider the following:

- Projects addressing stream flow through improved water use efficiency should include a mechanism that ensures unused water remains in the stream.
- Projects involving grazing management (e.g. riparian fencing, creation of riparian pastures) should include a grazing management plan.
- In many stream systems, periodic channel migration is necessary for creation and maintenance of aquatic and riparian habitat. Projects should not be designed to prevent natural, essential processes.
- Landowner commitment is critical to the success and sustainability of on-the-ground projects. This commitment should be clearly demonstrated through letters of support and other application materials.

SCHEDULE

Date	Event
1/28/2019	Issue of 2019 Interim Call for Applications
1/28/2019 through 3/12/2019	Project sponsors may contact DEQ to obtain input on project proposals and for review of draft applications
3/15/2019, 2:00pm	Applications due to DEQ by 2:00 pm
3/15/2019 through 3/29/2019	DEQ internal review of applications
4/1/2019	Notice of Intent to Award is sent to Project Sponsors
4/1/2019 through 4/30/2019	Contract development
July 2019	Funding becomes available

UNANTICIPATED PROGRAM CHANGES

Information in this Call may be subject to change based on unforeseen changes to DEQ and U.S. Environmental Protection Agency (EPA) priorities. If changes become necessary, DEQ will post the changes on the NPS Program website at <http://deq.mt.gov/Water/SurfaceWater/NonpointSources>.

SECTION II – APPLICATION PROCEDURE

Complete each of the following steps as you prepare and submit your 319 funding application and supporting documents.

STEP 1 – THOROUGHLY READ THE CALL FOR APPLICATIONS

Thoroughly read the Call, front to back. Write down any specific questions you have.

STEP 2 – CONTACT THE DEQ NONPOINT SOURCE PROGRAM

This step is optional and up to the discretion of the Project Sponsor. Prior to 3/12/2019, project sponsors are encouraged to contact the DEQ Watershed Protection Section for assistance with the following:

- Answering questions about this Call and the funding source.
- Determining if the project is a good fit for this funding.
- Conducting a visit to the project site.
- Explaining the required tasks.
- Determining if a Sampling and Analysis Plan (SAP) will be required.
- Suggesting methods for the project effectiveness evaluation.
- Discussing assistance needed in determining the load reduction estimates.
- Determining the applicability of education and outreach methods.

Previous project sponsors have found that seeking assistance from the Watershed Protection Section can improve the quality and competitiveness of their eventual 319 application. For assistance and information, please contact:

Dean Yashan, Section Supervisor
406-444-5317
dyashan@mt.gov

STEP 3 – DOWNLOAD AND COMPLETE THE APPLICATION MATERIALS

The fillable **Application form** and **Instructions** are available on DEQ's website:
<http://deq.mt.gov/Water/SurfaceWater/NonpointSources>.

Adobe Reader software is required and can be downloaded for free: <http://get.adobe.com/reader/>

If you have any trouble with the form, have questions about required information, or would like us to review and comment on draft versions of your application, contact one of the Nonpoint Source Program staff prior to March 12, 2019.

Signed applications and required materials must be received by DEQ by 2PM on 3/15/2019.

As you put together your application and supporting materials, follow the requirements and recommendations outlined below.

Project Tasks

Each scope of work should ideally include the following tasks:

Planning and Coordination

- Project design and engineering
- Permitting (where necessary)
- Signed landowner agreements for site access and long-term operation and maintenance
- Subcontracting; volunteer coordination, etc.

Project Implementation

- Materials procurement
- Construction
- As-built drawings (for more complex projects)

Project Effectiveness Monitoring

- Photo-point monitoring
- Estimation of nitrogen, phosphorus and sediment pollutant load reductions (required for projects designed to address these pollutants; typically addressed using simple modeling methods with assistance from DEQ staff)
- Vegetation mortality monitoring

Education and Outreach

- Celebrate the success of the project from a landowner, community, and environmental resource perspective
- Stimulate local interest in additional project work

Project Administration (*not to exceed 10% of the total 319 funds requested*)

- Business expenses (rent, communications, office supplies, etc.)
- Reporting (status reports, annual reports, final report, payment requests)
- General administrative expenses and overhead related to completion of the work in previous tasks
- Insurance

Helpful Resources

The following information may be useful in preparing a project:

- The 2017 Montana Nonpoint Source Management Plan (NPS Plan):
<http://deq.mt.gov/Water/SurfaceWater/nspollution>
- A map showing watersheds with approved total maximum daily loads (TMDLs) and final TMDL documents: <http://deq.mt.gov/water/surfacewater/TMDL>

- Information on existing Watershed Restoration Plans (WRPs) and WRP development: <http://deq.mt.gov/water/surfacewater/watershedrestoration>
- The Clean Water Act Information Center (CWAIC) database is available to help you search for information on the impairment and TMDL status of Montana waterbodies. The database can be searched online at www.cwaic.mt.gov

STEP 4 – SUBMIT YOUR APPLICATION

Signed applications and required materials must be received by DEQ by 2PM on 3/15/2019.

Project sponsors must submit all application materials, including attachments, in either PDF or Microsoft Office Suite compatible file format. **DO NOT** send electronic files through Dropbox, WeTransfer, Google Docs, or any other commercially available file transfer service. Electronic documents smaller than five megabytes (5 MB) may be delivered via email to Brian Barnes: Brian.Barnes@mt.gov. Electronic documents larger than five megabytes (5 MB) must be delivered using one of these three options:

- USB Drive (aka jump drive, or thumb drive)
- Compact Disc (CD or CD/DVD)
- The State of Montana's File Transfer Service (signup instructions available at <https://transfer.mt.gov/Home/Instructions>)

CDs and jump drives sent through the mail must be received by 2:00 pm on the deadline and should be mailed to:

Water Protection Bureau
Brian Barnes
Department of Environmental Quality
P.O. Box 200901
Helena, MT 59620-0901

Contact Brian Barnes to make sure that all documents were received: Brian.Barnes@mt.gov or 406 444-4205.

APPLICATION REVIEW AND CONTRACTING

All applications will be reviewed by an internal DEQ review team. Additional review and information may be sought from sister agencies at the state and federal level. Successful project sponsors are then offered a contract for 319 funding.

A scoring sheet will be used during the evaluation process and is included as **Attachment A**. The scoring sheet reflects DEQ's priorities for NPS projects, and project sponsors should review the scoring sheet and address the criteria within their Application. The scoring sheet is intended to support the review team's discussion. However, it is not a final decision-making matrix.

Notice of Intent to Award will be sent to project sponsors by 4/1/2019.

The EPA has final approval authority over all projects selected by DEQ for funding. EPA reviews the final scopes of work for consistency with the 2017 Montana Nonpoint Source Management Plan, consistency with EPA NPS program guidelines, and overall impacts on water quality. DEQ will conduct an

Endangered Species Act review to establish necessary parameters for project compliance with the Act. Upon receipt of EPA approval, DEQ will issue contracts to project sponsors who have received notices of intent to award in July of 2019.

CONTRACT DEVELOPMENT

319 funds are administered as contracts. Contracts are legally binding agreements that identify specific products or work that must be completed prior to receiving reimbursement. If you receive a Notice of Intent to Award, DEQ staff will contact you and begin working with you to develop a final scope of work, consistent with the tasks found in your application, with DEQ review team comments, and with DEQ and EPA fiscal procedures and requirements.

COST SHARE (MATCH)

Project sponsors are required to meet a minimum 40% cost share (also known as match) for the project. Match can be from private, state, local, or non-profit sources, it cannot be from federal sources. Use the following formula to calculate the amount of non-federal match required for your project.

$[(319 \text{ dollars requested})/.60] - (319 \text{ dollars requested}) = \text{required non-federal match}$

Example:

Purple Creek Watershed Group is seeking \$135,000 in 319 funding to pay for livestock fencing and riparian replanting.

$((135,000)/.60) - (135,000) = \text{required non-federal match}$

$225,000 - 135,000 = \$90,000 \text{ of required non-federal match}$

CONTRACT LIFECYCLE

Contracts will be awarded in July of 2019. Projects are expected to be completed within 3 years of the date the contract was signed. Expenses and match incurred by project sponsors prior to the signing of a contract, and after the expiration date of the contract, CANNOT be applied to the contract.

REPORTING REQUIREMENTS AND PAYMENT REQUESTS

Payment requests are on a reimbursement basis. Project sponsors shall request payment no more frequently than monthly and no less frequently than semi-annually. With each payment request, project sponsors are required to submit a report that includes a description of the work completed and justification for expenses incurred. At a minimum, sponsors must submit semi-annual (interim) reports, yearly annual reports, and a final report. Templates and reporting guidance for these reports can be found at: <http://deq.mt.gov/Water/SurfaceWater/NonpointSources>

ATTACHMENT A – 2019 INTERIM CALL SCORING SHEET

(To guide review team discussion)

Project Name: _____

Project Sponsor: _____

Reviewed By: _____

A – Goals and Methods		Score* (0, 1, 2, 3)		Weight		Points Awarded
1	The project will lead to long-term, sustainable reductions in nonpoint source pollution.		X	4	=	
2	The project is an appropriate next step for making progress towards the removal of a pollutant/waterbody combination from Montana's 2018 Impaired Waters list.		X	5	=	
3	The project will promote self-maintaining natural, ecological, and social processes that will protect water quality.		X	4	=	
4	Nonpoint source goals for the project are clearly defined, measurable, and attainable.		X	3	=	
5	Project costs are reasonable as compared to anticipated results.		X	4	=	
B – Planning and Administration		Score* (0, 1, 2, 3)		Weight		Points Awarded
1	Pre-project planning has been initiated and the project has clearly identified tasks that include adequate information to describe work to be accomplished.		X	4	=	
2	The project involves appropriate partners and has significant stakeholder support.		X	2	=	
3	Sufficient technical and managerial resources are available to facilitate completion of the project, including consideration of past performance.		X	4	=	
4	Outreach and education component(s) of the project targets the most appropriate audience(s) with an appropriate delivery method.		X	1	=	
5	Project involves appropriate measures of project effectiveness.		X	2	=	
C – Additional Considerations		Score* (0, 1, 2, 3)		Weight		Points Awarded
1	The project reduces pollutant loading above a permitted point source in a manner that could contribute to future economic benefit for a downstream Montana community.		X	3	=	
2	The project location provides direct public recreational or aesthetic benefit.		X	2	=	
3	The project provides additional benefit to natural resources. (improvements directly address recovery of an aquatic species of concern, natural water storage is addressed, direct benefit to native fisheries, wetland enhancement and protection, etc.)		X	1	=	

*1, 2 and 3 correspond to Low, Medium and High, respectively (i.e. 3 = High). 0 indicates the application does not address the question.

Total Score	
Funding Recommendation	
FF = Fully Fund, PF+ = Partial Fund (>50%), PF- = Partial fund (<50%), NF = Not Fund	

Reviewer comments and justification for funding recommendation.

General Comments: _____

Tasks and Budget Recommendations: _____

Additional Information Required from Sponsor: _____

ATTACHMENT B – GOVERNOR’S EXECUTIVE ORDER NO. 15-2018

**STATE OF MONTANA
OFFICE OF THE GOVERNOR
EXECUTIVE ORDER No. 15-2018**

**EXECUTIVE ORDER REQUIRING DISCLOSURE OF DARK MONEY SPENDING
FOR ENTITIES DOING BUSINESS WITH THE STATE OF MONTANA**

WHEREAS, in 2010, the U.S. Supreme Court’s *Citizens United* decision allowed unlimited direct spending by corporations in elections;

WHEREAS, two years later, the Supreme Court invalidated Montana’s own Corrupt Practices Act, which had banned direct corporate spending in elections;

WHEREAS, following *Citizens United*, there was an explosion in corporate spending in elections, much of which was funneled through so-called “dark money” organizations that conceal the source of funds used to influence an election;

WHEREAS, at the same time, the Supreme Court has endorsed the salving power of transparency in elections, holding that public disclosure can increase public confidence in government decision-making and prevent corruption from taking hold;

WHEREAS, since *Citizens United*, states—including Montana through its Disclose Act—have created innovative disclosure programs to shine light on dark money in elections;

WHEREAS, the Supreme Court in *Citizens United* observed that “[w]ith the advent of the Internet, prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters. Shareholders can determine whether their corporation’s political speech advances the corporation’s interest in making profits, and citizens can see whether elected officials are “in the pocket” of so-called moneyed interests.” 558 U.S. 310, 370-71 (2010) (citing *McConnell v. FEC*, 540 U.S. 93, 259 (2003) (opinion of Scalia, J.); *FEC v. Mass. Citizens for Life, Inc.*, 479 U.S. 238, 261 (1986));

WHEREAS, the Supreme Court also praised the role of commercial relationships in promoting disclosure, noting that shareholder objections “can be more effective today because modern technology makes disclosures rapid and informative,” and that “[t]he First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.” *Id.*;

WHEREAS, disclosure promotes First Amendment values by keeping the public informed and enabling the public to make informed assessments of their government, and at the same time disclosure fights corruption in government;

WHEREAS, Montanans also enjoy a constitutional right to know, which entitles Montanans to examine both the decisions of government and the forces brought to bear on those decisions;

WHEREAS, while the Montana legislature has a set of lobbying rules, there are fewer pay-to-play restrictions for entities seeking to do business with state government;

WHEREAS, disclosure rules for state procurement are essential to secure Montanans' right to know surrounding these important government functions;

WHEREAS, disclosure rules for state procurement prevent corruption, promote confidence in government, and inform the public of the operations of government;

WHEREAS, the public has an interest in comprehensive, aggregate information about government contractors' participation in elections;

WHEREAS, federal courts have routinely upheld anti-corruption measures, including contribution prohibitions and disclosure requirements, for entities doing business in front of the government;

WHEREAS, both before and after *Citizens United*, the Supreme Court has endorsed the importance of strong disclosure rules and questioned whether “‘uninhibited, robust, and wide-open’ speech can occur when organizations hide themselves from the scrutiny of the voting public”—rather, the Court has stated that disclosure favors the “First Amendment interests of individual citizens seeking to make informed choices in the political marketplace.” *McConnell*, 540 U.S. at 197;

WHEREAS, it is the responsibility of government to ensure the integrity of its institutions;

WHEREAS, the public must have confidence that decisions made by government are not subject to undue political influence;

WHEREAS, the government of Montana purchases millions of dollars in services each year with public dollars; and

WHEREAS, as Governor, I have a responsibility to oversee executive branch procurement, I have an obligation to the public to ensure procurement decisions are freely and fairly made without any undue influence, and I have a duty to supervise the official conduct of all executive and ministerial officers.

NOW, THEREFORE, I, STEVE BULLOCK, Governor of the State of Montana, pursuant to the authority vested in me under the Constitution and the laws of the State of Montana, including Title 2, Chapter 15 and Title 18, Chapter 4, do hereby order and direct the implementation of disclosure rules for executive branch contracting as follows:

I. POLICY

It is the policy of the executive branch that entities seeking to do business with the State of Montana must disclose contributions or expenditures they have made in elections, as detailed in this Executive Order.

II. DEFINITIONS

As used in this Executive Order, the following definitions apply:

1. “electioneering communication” means a paid communication that is publicly distributed by radio, television, cable, satellite, internet website, mobile device, newspaper, periodical, billboard, mail, or any other distribution of printed or electronic materials, that is made within 60 days of the initiation of voting in an election in Montana, that can be received by more than 100 recipients in the district in Montana voting on the candidate or ballot issue, and that:
 - a. refers to one or more clearly identified candidates in that election in Montana;
 - b. depicts the name, image, likeness, or voice of one or more clearly identified candidates in that election in Montana; or
 - c. refers to a political party, ballot issue, or other question submitted to the voters in that election in Montana.

The term does not mean:

- a. a bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation unless the facilities are owned or controlled by a candidate or political committee;
 - b. a communication by any membership organization or corporation to its members, stockholders, or employees;
 - c. a commercial communication that depicts a candidate’s name, image, likeness, or voice only in the candidate’s capacity as owner, operator, or employee of a business that existed prior to the candidacy; or
 - d. a communication that constitutes a candidate debate or forum or that solely promotes a candidate debate or forum and is made by or on behalf of the person sponsoring the debate or forum.
2. “covered expenditure” means:
 - a. A contribution, expenditure, or transfer made by the contracting entity, any of its parent entities, or any affiliates or subsidiaries within the entity’s control, that:
 - i. is to or on behalf of a candidate for office, a political party, or a party committee in Montana; or
 - ii. is to another entity, regardless of the entity’s tax status, that pays for an electioneering communication, or that makes contributions, transfers, or expenditures to another entity, regardless of its tax status, that pays for electioneering communications; and
 - b. The term does not include an expenditure made by the contracting entity, any of its parent entities, or any affiliates or subsidiaries within the entity’s control made in the ordinary course of business conducted by the entity making the

expenditure; or investments; or expenditures or contributions where the entity making the expenditure or contribution and the recipient agree that it will not be used to contribute to candidates, parties, or electioneering communications.

3. “executive branch” refers to the departments and agencies subject to the Governor’s executive authority as described in Article VI, Section 4 of the Montana Constitution and § 2-15-103, MCA.

III. DISCLOSURE REQUIREMENT

1. When soliciting for state procurement contracts, every contracting department and agency shall require all entities submitting offers for state government contracts with a total contract value of over \$25,000 for services or \$50,000 for goods to disclose “covered expenditures” that the contracting entity has made within two years prior to submission of their bid or offer. Certification that disclosure of this information has been made in a manner consistent with Department of Administration policies shall be required as a condition of submitting a bid or offer.
2. The disclosure of “covered expenditures” shall only be required whenever the aggregate amount of “covered expenditures” made within a 24-month period by the bidding or applying entity, any parent entities, or any affiliates or subsidiaries within the entity’s control exceeds \$2,500.
3. The final form of the disclosure required by this Executive Order shall be defined by the Department of Administration, but must include at a minimum:
 - a. the full name and address of the person or entity to whom each expenditure is made;
 - b. the date and amount of each expenditure;
 - c. the purpose and description of each expenditure;
 - d. in the case of an expenditure made for a direct campaign expenditure for express advocacy, if known at the time that the expenditure is reported, the name of each candidate, including the office held and office sought as applicable, whose election or defeat the expenditure advocates, or each ballot measure the passage or defeat of which the expenditure advocates; and
 - e. in the case of an expenditure made to an entity that purchases electioneering communications, if known at the time that the expenditure is reported, the name of each candidate, including the office held and office sought as applicable, to whom the communication refers or each ballot measure to which the communication refers.
4. Any disclosure under this Executive Order must be made to the Department of Administration, or to the contracting department or agency, at the time of the contract bid or offer. If the disclosure is made to a department or agency other than the Department of Administration, the recipient department or agency must forward the disclosure to the Department of Administration. The Department of Administration will compile this

information and make it available in a searchable database on a public website, such as transparency.mt.gov.

5. For contracts that are 24 months or longer, the Department of Administration or the contracting department or agency will require an updated disclosure form from successful contracting entities every 12 months.
6. No contracting department or agency may discriminate between bidding or applying entities because of the content of an entity’s expenditures or contributions disclosed under this Executive Order; however, departments or agencies may not award a contract with a total contract value of more than \$25,000 for services or \$50,000 for goods to any entity that does not complete the required certification under this Executive Order.
7. By September 1, 2018, the Department of Administration shall prepare such policies and issue such orders as are deemed necessary and appropriate to carry out this Executive Order. Such policies and orders must minimize the costs of compliance for contractors and shall not interfere with the ability of contractors, or their officers, or employees to engage in political activities to the extent otherwise permitted by law.
8. Each contracting department or agency shall cooperate with the Department of Administration in implementing this Executive Order and provide such information and assistance as the Department of Administration may require in the performance of its functions under this Executive Order.

Severability: if any provision, clause, or implementing policy (“provisions”) of this Executive Order or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Executive Order which can be given effect without the invalid provision or application, and to this end the provisions of this Executive Order are declared to be severable.

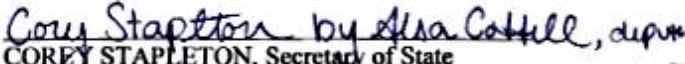
This Order is effective immediately and its disclosure provisions shall apply to contracts resulting from solicitations and applications received on or after October 1, 2018.



GIVEN under my hand and the GREAT SEAL of
the State of Montana this 8th day of
June, 2018.


STEVE BULLOCK, Governor

ATTEST:


COREY STAPLETON, Secretary of State

ATTACHMENT C – DECLARATION FORM

Declaration Form Dark Money Spending Disclosure Requirements

Contracting Entity shall comply with the State of Montana Executive Order No. 15-2018 requiring the disclosure of dark money spending.

Definitions. As used in this declaration form, the following definitions apply:

Electioneering Communication: A paid communication that is publicly distributed by radio, television, cable, satellite, internet website, mobile device, newspaper, periodical, billboard, mail, or any other distribution of printed or electronic materials, that is made within 60 days of the initiation of voting in an election in Montana, that can be received by more than 100 recipients in the district in Montana voting on the candidate or ballot issue, and that:

- a. refers to one or more clearly identified candidates in that election in Montana;
- b. depicts the name, image, likeness, or voice of one or more clearly identified candidates in that election in Montana; or
- c. refers to a political party, ballot issue, or other question submitted to the voters in that election in Montana.

The term does not mean:

- a. a bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation unless the facilities are owned or controlled by a candidate or political committee;
- b. a communication by any membership organization or corporation to its members, stockholders, or employees;
- c. a commercial communication that depicts a candidate's name, image, likeness, or voice only in the candidate's capacity as owner, operator, or employee of a business that existed prior to the candidacy; or
- d. a communication that constitutes a candidate debate or forum or that solely promotes a candidate debate or forum and is made by or on behalf of the person sponsoring the debate or forum.

In this definition, the phrase "made within 60 days of the initiation of voting in an election" means:

- a. in the case of mail ballot elections, the initiation of voting occurs when official ballot packets are mailed to qualified electors pursuant to 13-19-206, MCA; or

Montana Dark Money Spending Disclosure Declaration Form

- b. in other elections the initiation of voting occurs when absentee ballot packets are mailed to or otherwise delivered to qualified electors pursuant to 13-13-214, MCA.

Contracting Entity: A bidder, offeror, or contractor.

Covered Expenditure means:

- a. A contribution, expenditure, or transfer made by the Contracting Entity, any of its parent entities, or any affiliates or subsidiaries within the entity's control, that:
 - i. is to or on behalf of a candidate for office, a political party, or a party committee in Montana; or
 - ii. is to another entity, regardless of the entity's tax status, that pays for an Electioneering Communication, or that makes contributions, transfers, or expenditures to another entity, regardless of its tax status, that pays for Electioneering Communication; and
- b. The term excludes an expenditure made by the Contracting Entity, any of its parent entities, or any affiliates or subsidiaries within the entity's control made in the ordinary course of business conducted by the entity making the expenditure; investments; or expenditures or contributions where the entity making the expenditure or contribution and the recipient agree that it will not be used to contribute to candidates, parties, or Electioneering Communication.

Solicitation Requirements. The Contracting Entity shall disclose Covered Expenditures that the Contracting Entity has made within two years prior to submission of its bid or offer.

The disclosure of Covered Expenditures is only required by the bidder/offeror whenever the aggregate amount of Covered Expenditures made within a 24-month period by the bidder/offeror, any parent entities, or any affiliates or subsidiaries within the bidder/offeror's control exceeds \$2,500.

If the bidder/offeror meets the disclosure requirements, the bidder/offeror shall submit this signed declaration form indicating "Yes" AND the required disclosure form with its bid/proposal.

If the bidder/offeror does NOT meet the disclosure requirements, the bidder/offeror shall submit this signed declaration form with its bid/proposal indicating "No".

Annual Contract Requirements. The Contracting Entity agrees that if awarded a contract and the contract term exceeds, or has the potential to exceed 24

Montana Dark Money Spending Disclosure Declaration Form

months, it must annually review and complete a new declaration form and disclosure form, if necessary.

- ☐ Yes- I have read, understand, and meet the disclosure requirements for the 24 months immediately preceding the submission of this form. I will complete the necessary disclosure form and submit it with this form.

Company Name (Clearly Printed):

Authorized Signature:

Date: _____

- ☐ No- I have read, understand, and do NOT meet the disclosure requirements. I certify that the Contracting Entity has not made Covered Expenditures in excess of \$2,500 in the 24 months immediately preceding the submission of this form.

Company Name (Clearly Printed):

Authorized Signature:

Date: _____

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ATTACHMENT D – DISCLOSURE TEMPLATE

The Disclosure template only exists as a Microsoft Excel spreadsheet, compatible with a database operated by the Montana Department of Administration. To obtain a copy of the template, please visit the NPS Program website at <http://deg.mt.gov/Water/SurfaceWater/NonpointSources>. You may also contact Dean Yashan (406-444-5317, dyashan@mt.gov) for assistance.